

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**ROBERT O'BRIEN and NICHOLAS MARTIN,** )  
individually, and on behalf of all others similarly )  
situated, )

Plaintiffs, )

v. )

**PIZZA PANINOS, INC. d/b/a PANINO'S** )  
**PIZZERIA,** an Illinois corporation, and )  
**DOES 1-10,** )

Defendant. )

No. 10 cv 2991

Judge Kendall

Magistrate Soat Brown

**INITIAL JOINT STATUS REPORT**

Plaintiffs have filed a putative Class Action Complaint against the Defendant alleging violations of the Fair and Accurate Credit Transactions Act ("FACTA") (15 U.S.C. §1681) by printing the expiration date of Plaintiffs' credit cards on their customer receipts. On July 9, 2010 the Complaint was amended to substitute the correct corporate entity as a Defendant and to add a Plaintiff. Defendant, PIZZA PANINO'S, INC. d/b/a PANINO'S PIZZERIA, filed its Answer and Affirmative Defenses to the Amended Complaint on August 20, 2010.

**A. Nature of the Case**

1. Thomas A. Zimmerman, Jr. and Adam M. Tamburelli of Zimmerman Law Offices, P.C. represent Plaintiffs. Mark J. Mickiewicz, Michael D. Sanders, and Thomas B. Underwood of Purcell & Wardrop Chtd. represent Defendant, PIZZA PANINO'S, INC. d/b/a PANINO'S PIZZERIA. Each of these attorneys is expected to be involved in the trial of this matter.

2. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (general federal question), and 15 U.S.C. §1681p (FCRA).

3. Plaintiffs have filed a putative class action lawsuit seeking recovery for Defendant's alleged violation of FACTA (15 U.S.C. §1681) by allegedly printing the expiration date of Plaintiffs' credit cards on their customer receipts. No counterclaim has been filed. Defendant, PIZZA PANINO'S, INC. d/b/a PANINO'S PIZZERIA, filed its Answer and Affirmative Defenses to the Amended Complaint on August 20, 2010.

4. Defendant, PIZZA PANINO'S, INC. d/b/a PANINO'S PIZZERIA, executed a waiver of service on July 22, 2010.

5-6. The principal legal and factual issues are intertwined, and are:

(i) Whether Defendant issued transaction receipts failing to comply with FACTA's expiration date requirement after June 3, 2008;

(ii) Whether Defendant had a practice of providing customers with a transaction receipt which failed to comply with FACTA's expiration date requirement after June 3, 2008;

(iii) Whether Defendant's conduct in failing to provide customers with a transaction receipt which complied with FACTA's expiration date requirement after June 3, 2008 was willful and/or reckless;

(iv) Whether the elements of Fed. R. Civ. P. 23 have been met, and whether the Court will certify a class;

(v) Whether Plaintiffs and the other class members are entitled to statutory damages;

(vi) Whether the Court should award punitive damages; and

(vii) Whether Plaintiffs are entitled to attorney's fees, litigation expenses and costs.

**B. Discovery**

1. Discovery has not yet commenced in this case, as Defendant has not yet filed an appearance or responded to the Amended Complaint in this matter. The parties will seek both fact and Rule 23 discovery.

2. There are no pending motions, but Plaintiffs anticipate that a motion for class certification will be filed shortly.

3. There have been no previously entered rulings on substantive issues.

4. There have been no previously filed status reports.

**C. Trial**

1. A trial is not anticipated at this early stage of the case. There is not yet unanimous consent to a magistrate judge.

2. Plaintiffs and Defendant have requested a jury trial. The trial issues should be clarified after class certification has been decided.

**D. Settlement**

1. The parties have engaged in preliminary settlement discussions. However, Rule 23 discovery is required before the parties can engage in any meaningful settlement negotiations. A settlement conference may be meaningful at this time, if Defendant can provide preliminary information regarding the number of receipts that it issued to customers after June 3, 2008.

Respectfully submitted,

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